

bottom surface of the sole and has a bottom, to which a rear tap plate is secured. Lastly, a shock absorbing cushion is disposed within the shoe cavity and extends from the front portion of the top surface of the sole to the rear portion of the top surface of the sole. The shock absorbing cushion is permanently secured to the top surface of the sole.

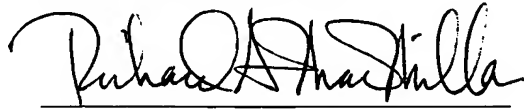
In support of the rejection, the Examiner stated that it “would have been obvious to provide tap plates as taught by either Esmonde or Carrara in the shoe of Stafford to allow the shoe to be worn for tap dancing.” However, there is simply no teaching provided in any of the references that the Stafford shoe can or should be used for tap dancing, as suggested by the Examiner. Indeed, the Stafford reference is directed towards “the manufacture of women’s strap shoes: open toe, side and heel shoes; and other open work shoes” (see Column 1, Lines 6-8 - emphasis added). The Stafford reference further states that “[w]hile the present invention has particular utility in connection with women’s strap shoes; open toe, side and heel shoes; and other women’s work shoes, it also has usefulness in the attachment of heels to shoe bodies, whether of the open or closed work variety (see Column 3, Lines 30-34 - emphasis added). Thus, the Stafford reference is related to conventional work shoes and not to the specialized tap shoe structure of the type disclosed in the Esmonde or Carrara references.

The Stafford reference discloses a conventional shoe structure (not a tap shoe) that includes a cushion insole device 22. The Esmonde or Carrara references both disclose a conventional tap shoe structure, but neither shows or suggests the use of a shock absorbing cushion, as specifically claimed.

Absent any teaching or motivation contained in the references for making the proposed combination, the Examiner’s rejection must fail. It is clear that the rejection is made with the impermissible wisdom of hindsight, not from the standpoint of a person having ordinary skill in the art. On the contrary, because of the lack of any

teaching or motivation, a person of ordinary skill in the art would not combine the references in the manner suggested by the Examiner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard S. MacMillan", written over a horizontal line.

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